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A DECADE OF DELIVERANCE

Heidi Knierim

It is hard to believe a decade has passed since the Michigan Medical Marijuana Act was implemented in Michigan. Ten years ago, Marijuana was in its infancy, Michigan was only the 13 th state to pass laws allowing the use of cannabis for medicinal purposes. The powers that be, even changed the way it was spelled on purpose, possibly hoping to cause some identity crisis between what the people voted for and what they wanted. As the years passed the public got the chance to learn for themselves how cannabis was positively impacting them and their families, without the devastating effects they were always told about cannabis. Today because of this along with organizations like My Compassion, Michigan's first 501(c)(3) federal charity for cannabis education, the great people of Michigan voted once again in Nov 2018, to allow the use of cannabis for people 21 and over without the requirement of a state issued card.

"A massive Thank You to you and Heidi - no other group did so much. You succeeded and now no more people will go to prison and the sick will have medication. So many people will be positively impacted by what you have done. Your lobby efforts and countless hours of work may have been the difference. Your wonderful people. We need more like both of you in this world!" -Message from Facebook Nov 2018

As the Michigan Medical Marijuana Act began to unfold, My Compassion was active in warding off moratoriums and battled for patients' rights, against a system that wasn't ready to accept legalization on any level. The lack of common sense and personal ideologies was astounding. The minds of so many that were supposed to represent their constituents, were closed before listening or learning anything from them or about cannabis! It was at this time, My Compassion decided to lobby the public, not the politicians and for the past decade no other organization in the state of Michigan has delivered the education and outreach on every spectrum. With over 300 public meetings, symposiums, expos, tradeshow, municipal hearings/presentations, hospital visits, home visits, clinical visits, cannabis helpline and countless publications, My Compassion has always been there for the benefit and safety of the public.

Assuring the safety of the public on a nonlethal plant that should never have been put under prohibition in the first place, is not an easy task. After all, as most everyone knows the penalty for breaking the law for cannabis is much more lethal to a person and their family, than the plant itself. Making sure to keep the pressure on was even more crucial for our patient centric organization, especially after working with and seeing children survive cancer with the treatment of cannabis and adults completely stop taking their opioids, I was like "Oh Hell No this isn't going to happen while I'm alive" so I founded My Compassion and have given the last ten years of my life along with other dedicated volunteers, working towards making sure no child or adult is left behind when it comes to learning about cannabis for cancer, chronic pain, PTSD and many other life impairing conditions.

I hope you will join My Compassion on its pursuit to make sure every person has the right to cannabis education and treatment! See how you can help at <https://mycompassion.org/donate/>

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Published March, 2019

MICHIGAN MEDICAL MARIJUANA ACT (EXCERPT)

Initiated Law 1 of 2008

333.26424 Qualifying patient or primary caregiver; arrest, prosecution, or penalty prohibited; conditions; privilege from arrests; presumption; compensation; physician subject to arrest, prosecution, or penalty prohibited; marihuana paraphernalia; person in presence or vicinity of medical use of marihuana; registry identification card issued outside of department; sale of marihuana as felony; penalty; marihuana-infused product.

4. Protections for the Medical Use of Marihuana

Sec. 4. (a) A qualifying patient who has been issued and possesses a registry identification card is not subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for the medical use of marihuana in accordance with this act, provided that the qualifying patient possesses an amount of marihuana that does not exceed a combined total of 2.5 ounces of usable marihuana and usable marihuana equivalents, and, if the qualifying patient has not specified that a primary caregiver will be allowed under state law to cultivate marihuana for the qualifying patient, 12 marihuana plants kept in an enclosed, locked facility. Any incidental amount of seeds, stalks, and unusable roots shall also be allowed under state law and shall not be included in this amount. The privilege from arrest under this subsection applies only if the qualifying patient presents both his or her registry identification card and a valid driver license or government-issued identification card that bears a photographic image of the qualifying patient.

(b) A primary caregiver who has been issued and possesses a registry identification card is not subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for assisting a qualifying patient to whom he or she is connected through the department's registration process with the medical use of marihuana in accordance with this act. The privilege from arrest under this subsection applies only if the primary caregiver presents both his or her registry identification card and a valid driver license or government-issued identification card that bears a photographic image of the primary caregiver. This subsection applies only if the primary caregiver possesses marihuana in forms and amounts that do not exceed any of the following:

(1) For each qualifying patient to whom he or she is connected through the department's registration process, a combined total of 2.5 ounces of usable marihuana and usable marihuana equivalents.

(2) For each registered qualifying patient who has specified that the primary caregiver will be allowed under state law to cultivate marihuana for the qualifying patient, 12 marihuana plants kept in an enclosed, locked facility.

(3) Any incidental amount of seeds, stalks, and unusable roots.

(c) For purposes of determining usable marihuana equivalency, the following shall be considered equivalent to 1 ounce of usable marihuana:

(1) 16 ounces of marihuana-infused product if in a solid form.

(2) 7 grams of marihuana-infused product if in a gaseous form.

(3) 36 fluid ounces of marihuana-infused product if in a liquid form.

(d) A person shall not be denied custody or visitation of a minor for acting in accordance with this act, unless the person's behavior is such that it creates an unreasonable danger to the minor that can be clearly articulated and substantiated.

(e) There is a presumption that a qualifying patient or primary caregiver is engaged in the medical use of marihuana in accordance with this act if the qualifying patient or primary caregiver complies with both of the following:

(1) Is in possession of a registry identification card.

(2) Is in possession of an amount of marihuana that does not exceed the amount allowed under this act. The presumption may be rebutted by evidence that conduct related to marihuana was not for the purpose of alleviating the qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, in accordance with this act.

(f) A registered primary caregiver may receive compensation for costs associated with assisting a registered qualifying patient in the medical use of marihuana. Any such compensation does not constitute the sale of controlled substances.

(g) A physician shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by the Michigan board of medicine, the Michigan board of osteopathic medicine and surgery, or any other business or occupational or professional licensing board or bureau, solely for providing written certifications,

in the course of a bona fide physician-patient relationship and after the physician has completed a full assessment of the qualifying patient's medical history, or for otherwise stating that, in the physician's professional opinion, a patient is likely to receive therapeutic or palliative benefit from the medical use of marihuana to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the serious or debilitating medical condition, provided that nothing shall prevent a professional licensing board from sanctioning a physician for failing to properly evaluate a patient's medical condition or otherwise violating the standard of care for evaluating medical conditions.

(h) A person shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for providing a registered qualifying patient or a registered primary caregiver with marihuana paraphernalia for purposes of a qualifying patient's medical use of marihuana.

(i) Any marihuana, marihuana paraphernalia, (or licit property that is possessed, owned, or used in connection with the medical use of marihuana, as allowed under this act, or acts incidental to such use, shall not be seized or forfeited.

(j) A person shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, solely for being in the presence or vicinity of the medical use of marihuana in accordance with this act, or for assisting a registered qualifying patient with using or administering marihuana.

(k) A registry identification card, or its equivalent, that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows the medical use of marihuana by a visiting qualifying patient, or to allow a person to assist with a visiting qualifying patient's medical use of marihuana, shall have the same force and effect as a registry identification card issued by the department.

(l) Any registered qualifying patient or registered primary caregiver who sells marihuana to someone who is not allowed the medical use of marihuana under this act shall have his or her registry identification card revoked and is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both, in addition to any other penalties for the distribution of marihuana.

(m) A person shall not be subject to arrest, prosecution, or penalty in any manner or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board

or bureau, for manufacturing a marihuana-infused product if the person is any of the following:

- (1) A registered qualifying patient, manufacturing for his or her own personal use.
- (2) A registered primary caregiver, manufacturing for the use of a patient to whom he or she is connected through the department’s registration process.

(n) A qualifying patient shall not transfer a marihuana-infused product or marihuana to any individual.

(o) A primary caregiver shall not transfer a marihuana-infused product to any individual who is not a qualifying patient to whom he or she is connected through the department’s registration process.

333.26424a Registered qualifying patient or registered primary caregiver; arrest, prosecution, or penalty, or denial of right or privilege prohibited; conditions.

Sec. 4a.

(1) This section does not apply unless the medical marihuana facilities licensing act is enacted.

(2) A registered qualifying patient or registered primary caregiver shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for any of the following:

- (a) Transferring or purchasing marihuana in an amount authorized by this act from a provisioning center licensed under the medical marihuana facilities licensing act.
- (b) Transferring or selling marihuana seeds or seedlings to a grower licensed under the medical marihuana facilities licensing act.
- (c) Transferring marihuana for testing to and from a safety compliance facility licensed under the medical marihuana facilities licensing act.

333.26424b Transporting or possessing marihuana-infused product; violation; fine.

Sec. 4b.

(1) Except as provided in subsections (2) to (4), a qualifying patient or primary caregiver shall not transport or possess a marihuana-infused product in or upon a motor vehicle.

(2) This section does not prohibit a qualifying patient from transporting or possessing a marihuana-infused product in or upon a motor vehicle if the marihuana-infused product is in a sealed and labeled package that is carried in the trunk of the vehicle or, if the vehicle does not have a trunk, is carried so as not to be readily accessible from the interior of the vehicle. The label must state the weight of the marihuana-infused product in ounces, name of the manufacturer, date of manufacture, name of the person from whom the marihuana-infused product was received, and date of receipt.

(3) This section does not prohibit a primary caregiver from transporting or possessing a marihuana-infused product in or upon a motor vehicle if the marihuana-infused product is accompanied by an accurate marihuana transportation manifest and enclosed in a case carried in the trunk of the vehicle or, if the vehicle does not have a trunk, is enclosed in a case and carried so as not to be readily accessible from the interior of the vehicle. The manifest form must state the weight of each marihuana-infused product in ounces, name and address of the manufacturer, date of manufacture, destination name and address, date and time of departure, estimated date and time of arrival, and, if applicable, name and address of the person from whom the product was received and date of receipt.

(4) This section does not prohibit a primary caregiver from transporting or possessing a marihuana-infused product in or upon a motor vehicle for the use of his or her child, spouse, or parent who is a qualifying patient if the marihuana-infused product is in a sealed and labeled package that is carried in the trunk of the vehicle or, if the vehicle does not have a trunk, is carried so as not to be readily accessible from the interior of the vehicle. The label must state the weight of the marihuana-infused product in ounces, name of the manufacturer, date of manufacture, name of the qualifying patient, and, if applicable, name of the person from whom the marihuana-infused product was received and date of receipt.

(5) For purposes of determining compliance with quantity limitations under section 4, there is a rebuttable presumption that the weight of a marihuana-infused product listed on its package label or on a marihuana transportation manifest is accurate.

(6) A qualifying patient or primary caregiver who violates this section is responsible for a civil fine of not more than \$250.00

MICHIGAN MEDICAL MARIJUANA 2018 ANNUAL REPORT

The Michigan Medical Marijuana Act Statistical Report with Program Information and Financial Data for Fiscal Year 2018 contains the reporting requirements pursuant to both MCL 333.26426(i) (1), (2), (3), (4) and (5) and Section 505 of Public Act 207 of 2018.

The Michigan Medical Marijuana Act, Initiated Law 1 of 2008, Section 6 (i) [MCL 333.26426 (i) (1), (2), (3), (4) and (5)] states: The department shall submit to the legislature an annual report that does not disclose any identifying information about qualifying patients, primary caregivers, or physicians, but does contain, at a minimum, all of the following information:

(1) The number of applications filed for registry identification cards:

For Fiscal Year 2018, there were a total of **185,442** applications filed for medical marijuana registry identification cards.

(2) The number of qualifying patients and primary caregivers approved in each county:

COUNTY	PATIENTS	CAREGIVERS
Alcona	428	64
Alger	193	39
Allegan	2,978	547
Alpena	815	108
Antrim	844	176
Arenac	811	135
Baraga	180	27
Barry	1,637	295
Bay	3,710	413
Benzie	702	121
Berrien	4,701	843
Branch	1,519	268

COUNTY	PATIENTS	CAREGIVERS
Calhoun	4,048	733
Cass	1,607	279
Charlevoix	746	135
Cheboygan	614	95
Chippewa	776	134
Clare	1,135	179
Clinton	1,585	266
Crawford	443	74
Delta	1,045	215
Dickinson	838	174
Eaton	3,988	701
Emmet	883	114
Genesee	17,939	3,052
Gladwin	881	143
Gogebic	498	106
Grand Traverse	2,911	465
Gratiot	1,119	164
Hillsdale	1,933	346
Houghton	699	119
Huron	742	80
Ingham	10,792	1,631
Ionia	1,578	210
Iosco	1,012	136
Iron	478	83
Isabella	1,404	207
Jackson	5,321	960
Kalamazoo	5,818	975
Kalkaska	832	167
Kent	11,834	1,435
Keweenaw	60	11

COUNTY	PATIENTS	CAREGIVERS
Lake	457	86
Lapeer	3,273	561
Leelanau	408	67
Lenawee	4,378	742
Livingston	4,858	699
Luce	147	26
Mackinac	310	49
Macomb	29,303	4,136
Manistee	785	142
Marquette	1,419	393
Mason	1,016	138
Mecosta	986	133
Menominee	699	144
Midland	1,837	236
Missaukee	346	65
Monroe	5,205	738
Montcalm	2,091	422
Montmorency	457	90
Muskegon	4,959	653
Newaygo	1,642	275
Oakland	36,177	4,692
Oceana	1,087	160
Ogemaw	667	100
Ontonagon	185	28
Osceola	737	145
Oscoda	222	30
Otsego	834	152
Ottawa	4,912	561
Presque Isle	363	64
Roscommon	980	151

COUNTY	PATIENTS	CAREGIVERS
Saginaw	5,532	752
Saint Clair	4,424	652
Saint Joseph	1,771	303
Sanilac	1,209	193
Schoolcraft	270	56
Shiawassee	2,749	446
Tuscola	2,561	485
Van Buren	2,728	524
Washtenaw	12,586	1,487
Wayne	49,906	6,095
Wexford	962	192
Out of State		7
Total	297,515	43,056*

*Please note the grand total is less than the sum of the counties, as a single person could serve in multiple counties on different registrations.

(3) The nature of the debilitating medical conditions of the qualifying patients.

NAME OF DEBILITATING CONDITION	% OF PATIENTS	NAME OF DEBILITATING CONDITION	% OF PATIENTS
Acquired Immune Deficiency Syndrome (AIDS)	0.28%	Severe Nausea	9.50%
Alzheimer’s	0.05%	Wasting Syndrome	0.80%
Amyotrophic Lateral Sclerosis	0.05%	Post -Traumatic Stress Disorder	4.09%
Cachexia	0.63%	Obsessive Compulsive Disorder*	0.09%
Cancer	4.91%	Arthritis**	2.04%
Crohn’s disease	1.09%	Rheumatoid Arthritis**	0.14%
Glaucoma	1.34%	Spinal Cord Injury**	0.10%
Hepatitis C	1.01%	Colitis**	0.04%
Human Immunodeficiency Virus (HIV)	0.30%	Inflammatory Bowel Disease**	0.10%
Nail Patella	0.02%	Ulcerative Colitis**	0.05%
Seizures - Epilepsy	2.13%	Parkinson’s Disease**	0.03%
Severe and Chronic pain	91.11%	Tourette’s Syndrome**	0.01%
Severe and Persistent Muscle Spasms	24.05%	Autism**	0.04%
		Chronic Pain**	4.31%

*The total adds up to more than 100% because most patients are diagnosed with more than one debilitating medical condition. The table above shows the percentage of all patients diagnosed with each condition. ** July 7, 2018 new Medical Conditions were approved.

(4) The number of registry identification cards revoked.

Zero registry cards were revoked in Fiscal Year 2018.

(5) The number of physicians providing written certifications for qualifying patients.

During Fiscal Year 2018, there were a total of 1,818 physicians who provided written certifications for qualifying medical marijuana patients.

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PHARMSCI420: INTRODUCING MEDICINAL CANNABIS INTO THE UNIVERSITY OF MICHIGAN'S HEALTH CURRICULUM

Gus R. Rosania, PhD

The first lecture on medicinal cannabis taught at the University of Michigan was one of the highlights of my eighteen-year career as a Professor of Pharmaceutical Sciences in the College of Pharmacy. Buttressed by the FDA's approval of Epidiolex (cannabidiol) for the treatment of seizures associated with rare and severe forms of epilepsy in June of 2018, together with the legalization of hemp in December, a new course, Pharmaceutical Sciences 420: Medicinal Cannabis, is in an ideal position to educate future generations of University of Michigan undergraduate, graduate and professional students about the medical applications of cannabis. It will also educate students about the botanical, chemical, genetics, pharmacological, and industrial aspects relevant to the cultivation and processing of the plant; the extraction, isolation and analysis of its active pharmaceutical components; and the development of cannabis-derived pharmaceutical products including a variety of different formulations and dosage forms designed for a large number of potential indications and all possible routes of administration. Furthermore, the course will introduce students to the history of cannabis prohibition, as well as the social, political, cultural forces that sustained this prohibition for more than 80 years, but which ultimately has led to overturning this prohibition by the legalization of hemp. After completing the course, students will be prepared to pursue a myriad of opportunities that are now opening up through the legalization of hemp cultivation in the United States. The cannabis industry in the US is booming and its future is bright. With successful completion of the PharmSci420 course, University of Michigan graduates will greatly benefit the State because they will be equipped to aid in reviving the State's agricultural, biotechnology and pharmaceutical industry and thus spurring economic growth.

My journey towards becoming course coordinator of PharmSci420 began a little over a decade ago, roughly coinciding with the legalization of medicinal cannabis in Michigan. At the time, it became apparent to me that there would be an emerging educational demand for knowledge about cannabis. Furthermore, given the few scientific investigations that have been done on the medicinal use of cannabis in patient populations, there was also a clear need to establish a research program that would study the therapeutic benefits and associated risks of cannabis use. Because of the University of Michigan's emphasis on evidence-based medicine, the dearth of research

on the medicinal properties of cannabis posed a quandary for establishing an advanced, rigorous course that would fulfill the high standards that are expected in University of Michigan course offerings. Furthermore, since cannabis is a Schedule 1 controlled substance, meaning the Federal government does not recognize any medical usefulness, posed a significant obstacle for advancing cannabis-related research, or justifying an entire semester of content on the subject. If a semester long, in-depth course is not offered for any other prescription drug, why should the University offer it for this nondrug, in particular? In light of all these caveats and considering the many other important, alternative topics of apparently higher priority, I put the idea of teaching this course and of advancing a cannabis research program on hold, at least until the rationale for teaching such a course would become more convincing.

After 2008, the circumstances surrounding medicinal cannabis use in Michigan as well as in other States across the Nation began to change at an increasingly rapid pace. First, there was the collapse of the State's pharmaceutical industry and the economic recession of 2008, which greatly impacted Michigan's scientific labor force which was worsened by the departure of Pfizer. Then, there came a realization that cannabis legalization was spreading across the nation, to the point that a majority of States legalized medicinal cannabis use. In parallel, a prescription drug toxicity and opioid addiction epidemic was enveloping the nation, to the point that opioid-related fatalities constituted the major cause of death among US citizens less than 50 years of age. In states like Colorado and California, it became increasingly apparent that the legalization of medicinal cannabis was not leading to a decay in social order as was predicted by many cannabis opponents, nor did it cause major changes in the patterns of cannabis use. Instead, it resulted in a gradual shifting of cannabis use away from an illegal, black market and into a more controlled, regulated market. Furthermore, the economic benefits of the emerging medicinal cannabis markets in these states were becoming apparent, with minimal drawbacks. Thus, the fears surrounding the negative impact of cannabis legalization gradually began to fade, leading to an increased interest in exploring and possibly exploiting the positive aspects of the plant.

Another enabling circumstance that facilitated acceptance of medicinal cannabis happened in 2012, when the University of Michigan College of Pharmacy decided to establish a Bachelor of Science degree in Pharmaceutical Sciences. This degree program is geared towards undergraduate students with an interest in pursuing careers in medicine, pharmacy, nursing or other health-related professions or advanced degrees and careers in the pharmaceutical industry. The creation of this program

shifted my teaching efforts from professional to undergraduate education, and the newly established degree created opportunities for energetic, creative faculty members like myself to develop visionary courses aimed at stimulating the imagination and guiding students towards virgin career development opportunities and unexplored horizons for personal and professional growth. The Bachelor of Science in Pharmaceutical Sciences offered a path for students interested in health related careers to pursue a distinctively different trajectory from those majoring in chemistry, biology, biochemistry, nursing or bioengineering, while allowing professional students from Pharmacy as well as undergraduate and graduate students from other units in the University to be exposed to drug design, discovery and development aspects of cannabis as an elective.

As a matter of fate, I found myself in my office, without inspiration on a cold Sunday afternoon in early December of 2017, needing a break from writing an NIH grant application. I decided to get some fresh air and ideas, so I walked over to the Ross School of Business to check out a conference that was being organized by Green Wolverine, a cannabis-oriented undergraduate student club. This newly founded student club was exploring all the legal business opportunities that were opening up by the changes in cannabis's legal status that were occurring in Michigan and throughout the rest of the country. I thought it was remarkable that a group of undergraduate students would have the audacity to organize a conference on a Sunday afternoon, so I was very curious. Even more unusual, when I arrived at the Ross School of Business, I found the main Robertson auditorium was almost half-full, with several well-known politicians and cannabis activists, as well as thought leaders, entrepreneurs and cannabis pioneers from the local Ann Arbor community. Sitting in the audience, I found myself enthralled by the depth of the presentations, and by the conviction and energy of the lecturers. After the last speaker, I approached the founder of the student club, Adam Rosenberg, as well as its Medical Director, Juan Aguirre. These two undergraduates, together with several other Green Wolverines, had a profound impression on me, as I found them to be the most passionate, energetic and dedicated group of students that I had ever encountered during my years at the University. Right then and there, I decided that the time was ripe to teach the medicinal cannabis course which I had shelved in the back of my mind during the previous decade.

To test the receptiveness of the University community and the College of Pharmacy Dean, Chairs, faculty colleagues and students, I encouraged Adam and Juan to organize the first Green Wolverine science symposium at the University of Michigan. They did this with absolute passion and conviction. In order to distance myself from the organization of this symposium, I took

a sabbatical leave and became visiting scholar at the Center of Medicinal Cannabis Research at the University of California in San Diego, where I began connecting with other established cannabis scholars. On September 29, 2018, some of the most eminent cannabis researchers from the entire United States convened at the University of Michigan as guest lecturers in the first Green Wolverine science symposium that was organized by Adam and Juan, as well as Abby Kennedy, the 2019 President of Green Wolverine. With keynote presentations from legendary cannabis scientists including Drs. Marilyn Huestis, Daniele Piomelli, Sue Sisley, and Audra Stinchcomb, together with lectures delivered by other faculty from the University of Michigan as well as local cannabis physicians, entrepreneurs and industrialists, the symposium was a resounding success. Amplifying the overall impact of the symposium, earlier in the summer, the FDA had approved Epidiolex, the first ever cannabis derived prescription drug. Then, a little over month after the conference, on November 6, 2018, the citizens of Michigan voted to pass Proposition 1, which effectively legalized non-medical adult cannabis use. On December 20, 2018, the President of the United States signed the 2018 Farm Bill into law, which legalized hemp at a federal level and therefore made non-psychoactive (THC-free) cannabis cultivation and non-psychoactive (THC-free) cannabis-derived product development legal across the US, effectively ending over 80 years of cannabis prohibition. The remarkable progress in the status of cannabis that occurred in 2018 ultimately was the tipping point that led to the curriculum committee at the College of Pharmacy and the University of Michigan's Office of the Registrar to approve the medicinal cannabis course. It was a vision whose time had come.

On January 18, 2019, the first lecture in the course was given by a very special guest lecturer, Dr. Evan Litinas, MD, a practicing physician in Ann Arbor and the Chief Medical Officer at Om of Medicine, one of our local dispensaries located on Main Street. Evan's lecture as a medical pioneer marked the end of nearly a decade of preparation surrounding the teaching of the course, and the beginning of a new era in medicinal cannabis education at the University. Since then, the course has hosted many distinguished Professors of the University, as well as many outside experts with complementary experience in the more practical aspects related to cannabis commercialization. We have had lectures on the cultivation of cannabis (Dr. Danny Victor, JD); the establishment of the legal status of cannabis (Prof. Mark Osbeck, JD); the enactment of Federal cannabis law enforcement policy (Dr. Don Vereen, MD, JD, MPH); the genomics, evolution and ecology of cannabis (Dr. Mowgli Holmes, PhD); the medicinal chemistry of cannabis-derived natural products (Prof. David Sherman, PhD); the pharmacology of cannabinoids (Dr. Phil Rzeczycki, PhD); the medical relevance of cannabis and endocannabinoid signaling in the treatment of pain (Prof. Dan Clauw,

MD) ; the relevance of cannabis and endocannabinoid signaling in gut health and disease (Prof. John Wiley, MD) ; the adverse effects of cannabis and its associated addiction risks (Prof. Mark Ilgen, PhD) ; the public policy issues affecting the social and healthcare impact of cannabis (Prof. Rebecca Haffajee, PhD, JD, MPH); the political landscape and the enactment and implementation of cannabis legislation in Michigan (Mr. Jeff Irwin, Michigan State Senator and UM alumnus); political activism and the impact of cannabis in the national, criminal justice system (Mr. Nick Zettell, UM alumnus); cannabis entrepreneurship and community leadership (Mr. Mark Passerini, UM alumnus); and the extraction, processing, development and manufacture of cannabis products (Dr. Stephen Goldner, JD). We had special lecture presentations from the Ann Arbor Police Department, as well as two of the city's prosecuting attorneys and two drug recognition expert officers, all of which highlighted the manner in which the City of Ann Arbor has been seamlessly adapting to the new era of legal cannabis in Michigan.

To help close the course in the most fitting manner, Adam Rosenberg and Juan Aguirre will be wrapping up the lecture series with an introduction to the Green Wolverine student club and their personal insights into undergraduate education and the pursuit of cannabis-related career opportunities. With more than forty students enrolled this first time around, the course was a tremendous success. Every lecture stimulated a great deal of intellectual excitement and discussion, as well as a considerable amount of press coverage. Within the University's academic community, the course has highlighted the outstanding intellectual environment and the relevance of the educational opportunities offered through the University of Michigan College of Pharmacy, and especially through our pharmaceutical sciences (undergraduate) Bachelor of Science degree program.

Gus R. Rosania, PhD is Professor of Pharmaceutical Sciences at the University of Michigan College of Pharmacy. He is a course coordinator of Pharmaceutical Sciences 420, the first Medicinal Cannabis course to be offered to undergraduate, graduate and professional students at the University of Michigan. Since 2001, he has led an NIH funded research group studying the mechanisms of toxicity associated with prescription drugs. Gus was the first University of Michigan Professor to speak at Hash Bash in favor of Medicinal Cannabis research. He is an advocate for the rescheduling or complete descheduling Cannabis at the federal level, and for the need for funding and advancing scientific research into the medical use of the plant, to investigate its potential.

PTSD AND CANNABIS

Dustin Sulak, DO

I personally understand how debilitating and limiting the late effects of trauma can be in a person's life. Perhaps you have lived through a traumatic or life-threatening event, or perhaps you witnessed a disastrous event. And if you haven't, chances are that one of your friends or family members have experienced trauma.

Approximately 10% of Americans suffer from post-traumatic stress at some point in their lives and 22 veterans take their own lives each day. I'd like to tell you about some very effective and safe treatments that can help a person suffering from this condition, including medical cannabis.

While some people's innate healing system can help them fully recover, mentally and physically, from traumatic events, other people experience a prolonged state of suffering. These residual symptoms and impairments are collectively called "Post-Traumatic Stress," in medical terms, or PTS. When these symptoms persist for longer than 1 month and result in decreased functioning in life, patients may be diagnosed with PTSD – post-traumatic stress disorder.

Post-traumatic stress can show up in various ways in a person's life. Some people re-experience the traumatic event, through flashbacks, nightmares, recurrence of physical pain, or persistent thinking about the event or its consequences.

Some have so-called hyper-arousal symptoms, such as trouble sleeping, startling easily, difficulty concentrating, and trouble opening up emotionally.

Some people avoid reminders of the trauma, and their lives become smaller and smaller. Some have trouble remembering or thinking clearly about the traumatic event, as if their subconscious minds are avoiding those traumatic thoughts, which truly need to be addressed and processed if the person is to heal.

From an integrative, holistic perspective, there are many factors that predispose individuals to post-traumatic stress and many treatments that can relieve the suffering tremendously. I'd like to tell you about these treatments after a little background information about how your nervous

system works.

We all have an autonomic nervous system, which controls all the bodily functions you don't have to think about, like breathing, circulation, digestion, and a lot more. The autonomic nervous system literally has two divisions; one promotes "fight or flight" physiology, while the other promotes "rest and digest" physiology.

In the times of our ancestors, the fight or flight nervous system was very important for helping us avoid predators. Our digestion stops so blood can go to our muscles, our reactions become very abrupt and emotional so we don't think too long before deciding to run away from the tiger, we become hyper-aware of our environment, which makes it hard to concentrate on one thing... you get the picture.

People who suffer from post-traumatic stress get stuck in that branch of the nervous system. It's as if the trauma gets stuck in their bodies, and until they release the trauma the nervous system continues to operate in fight or flight mode. Remaining in this state for too long can lead to a number of mental and physical problems, ranging from poor digestive health, to pain, to anxiety. It can also predispose people to re-traumatization because they are seeing the world through the eyes of "something terrible is going to happen."

The goal of PTSD treatment is two-fold. One on hand, we want to ease the patient's symptoms, so they can continue to function in their lives and get some relief from the persistent suffering. On the other hand, we want to help people release that stored trauma, so their nervous system, and the rest of their body and mind, can return to a normal state of balance. That's what I call healing.

I have been incredibly impressed by the relief and healing we witness in our patients who use medical cannabis to treat post-traumatic stress. My twenty or so colleagues, in three medical clinics, agree, as do a number of recent research studies, which I'd like to briefly review with you.

First of all, cannabis is excellent at reducing or removing the many symptoms of PTS. It works in a part of the brain that controls emotional memory, and literally helps patients experience life in the present moment. When under the influence of cannabis, patients with PTS can finally stop dwelling on the fearful memories. They are able to release their anxiety,

smile, and pay attention to something beautiful that's happening right now around them. The cannabis decreases the physical pain, prevents flashbacks and nightmares, and is an excellent treatment for insomnia. It frees patients from the great burden of their stored trauma. Over and over again, we hear patients say things like "this herb gave me my life back," or, "I finally feel like myself again." Patients can use cannabis and finally get some work done, enjoy their children, appreciate all they do have, and get back to their lives.

Furthermore, medical cannabis can actually help heal the cause of the post-traumatic stress. What I've referred to as "releasing the stored trauma" is scientifically called "fear extinction." A number of animal experiments have proven that compounds found in cannabis can promote fear extinction, helping the animals forget the painful stimuli they were exposed to, and return to their normal routines. Recently, two human studies have demonstrated the same findings.^{1,2} Both were placebo controlled; one used THC, the well known psychoactive component of cannabis, while the other used CBD, or cannabidiol, a cousin of THC found in certain cannabis strains, that does not cause any intoxication.

These studies suggest that using cannabis in conjunction with therapies designed to release the stored trauma may enhance the benefits of those therapies. I also think of life as therapy, since we are always facing reminders of our limitations and having to choose between love and fear, acceptance or judgment, worry or trust.

There are many effective therapies that are designed to facilitate fear extinction, and it is likely that cannabis users will have greater success with these treatments. While traditional psychotherapy may be helpful, I have found that certain approaches may provide faster and superior healing outcomes. I have been particularly impressed by EMDR (eye movement desensitization and reprocessing), EFT (emotional freedom technique or meridian tapping), hypnotherapy, DBT (dialectical behavioral therapy), and acupuncture. EFT is especially useful as it is simple and free to learn, powerfully effective, and can be self-administered at any time.

Some patients suffering from post-traumatic stress are concerned that cannabis may be a dangerous treatment because it is addictive or because they have been told for so many years that marijuana kills brain cells and so forth. And I must admit that medical cannabis use does have some potential side effects. These effects, however, are often very mild,

and with some fine-tuning of the treatment, can be avoided. Cannabis is approximately as addictive as caffeine for most people. And, most importantly, it is much safer than the conventional medications currently available for PTSD. Unlike those medications, cannabis has no lethal overdose, it is not associated with increased risk of suicide, and withdrawal symptoms of cannabis are mild and not-life threatening.

Many people are concerned that if they use cannabis to treat post-traumatic stress, they'll have to smoke it, or they'll have to walk around stoned all the time. I am happy to tell you that this is certainly not the case. Many patients take cannabis orally and discretely in the form of tinctures or capsules. There are several strains of cannabis high in CBD, which convey the benefits of cannabis without getting people high and many PTSD patients are able to use an incredibly small amount of cannabis and still get excellent results.



Whether you're new to cannabis therapy or an experienced user, if you're serious about realizing the optimal health benefits of cannabis, **Healer.com will help you get there!**



¹ Rabinak, Christine A., et al. "Cannabinoid facilitation of fear extinction memory recall in humans." *Neuropharmacology* 64 (2013): 396-402.

² Das, Ravi K., et al. "Cannabidiol enhances consolidation of explicit fear extinction in humans." *Psychopharmacology* 226.4 (2013): 781-792.

Dustin Sulak, D.O. is a renowned integrative medicine physician based in Maine, whose practice balances the principles of osteopathy, mind-body medicine and medical cannabis. Regarded as an expert on medical cannabis nationally, Dr. Sulak educates medical providers and patients on its clinical use, while continuing to explore the therapeutic potential of this ancient yet emerging medicine.

Dr. Sulak received undergraduate degrees in nutrition science and biology from Indiana University, a doctorate of osteopathy from the Arizona College of Osteopathic Medicine and completed an internship at Maine-Dartmouth Family Medicine Residency.

MEDICAL MARIHUANA FACILITIES LICENSING ACT (EXCERPT) ACT 281 OF 2016

333.27201 Protected activities; person owning or leasing property upon which marihuana facility located subject to penalties or sanctions prohibited; conditions; activities of certified public accountant or financial institution not subject to certain penalties or sanctions; other provisions of law inconsistent with act; definitions.

Sec. 201.

(1) Except as otherwise provided in this act, if a person has been granted a state operating license and is operating within the scope of the license, the licensee and its agents are not subject to any of the following for engaging in activities described in subsection (2):

- (a) Criminal penalties under state law or local ordinances regulating marihuana.
- (b) State or local criminal prosecution for a marihuana-related offense.
- (c) State or local civil prosecution for a marihuana-related offense.
- (d) Search or inspection, except for an inspection authorized under this act by law enforcement officers, the municipality, or the department.
- (e) Seizure of marihuana, real property, personal property, or anything of value based on a marihuana-related offense.
- (f) Any sanction, including disciplinary action or denial of a right or privilege, by a business or occupational or professional licensing board or bureau based on a marihuana-related offense.

(2) The following activities are protected under subsection (1) if performed under a state operating license within the scope of that license and in accord with this act, rules, and any ordinance adopted under section 205:

- (a) Growing marihuana.
- (b) Purchasing, receiving, selling, transporting, or transferring marihuana from or to a licensee, a licensee's agent, a registered qualifying patient, or a registered primary caregiver.
- (c) Possessing marihuana.

- (d) Possessing or manufacturing marihuana paraphernalia for medical use.
- (e) Processing marihuana.

(f) Transporting marihuana.

(g) Testing, transferring, infusing, extracting, altering, or studying marihuana.

(h) Receiving or providing compensation for products or services.

(3) Except as otherwise provided in this act, a person who owns or leases real property upon which a marihuana facility is located and who has no knowledge that the licensee violated this act is not subject to any of the following for owning, leasing, or permitting the operation of a marihuana facility on the real property:

(a) Criminal penalties under state law or local ordinances regulating marihuana.

(b) State or local civil prosecution based on a marihuana-related offense.

(c) State or local criminal prosecution based on a marihuana-related offense.

(d) Search or inspection, except for an inspection authorized under this act by law enforcement officers, the municipality, or the department.

(e) Seizure of any real or personal property or anything of value based on a marihuana-related offense.

(f) Any sanction, including disciplinary action or denial of a right or privilege, by a business or occupational or professional licensing board or bureau.

(4) Except as otherwise provided in this act, a certified public accountant who is licensed under article 7 of the occupational code, 1980 PA 299, MCL 339.720 to 339.736, is not subject to any of the following for engaging in the practice of public accounting as that term is defined in section 720 of the occupational code, 1980 PA 299, MCL 339.720, for an applicant or licensee who is in compliance with this act, rules, and the Michigan medical marihuana act:

(a) Criminal penalties under state law or local ordinances regulating marihuana.

(b) State or local civil prosecution based on a marihuana-related offense.

(c) State or local criminal prosecution based on a marihuana-related offense.

(d) Seizure of any real or personal property or anything of value based on a marihuana-related offense.

(e) Any sanction, including disciplinary action or denial of a right or privilege, by

a business or occupational or professional licensing board or bureau based on a marihuana-related offense.

(5) Except as otherwise provided in this act, a financial institution is not subject to any of the following for providing a financial service to a licensee under this act:

- (a) Criminal penalties under state law or local ordinances regulating marihuana.
- (b) State or local civil prosecution based on a marihuana-related offense.
- (c) State or local criminal prosecution based on a marihuana-related offense.
- (d) Seizure of any real or personal property or anything of value based on a marihuana related offense.
- (e) Any sanction, including disciplinary action or denial of a right or privilege, by a business or occupational or professional licensing board or bureau based on a marihuana-related offense.

(6) For the purposes of regulating the commercial entities established under this act, any provisions of the following acts that are inconsistent with this act do not apply to a grower, processor, secure transporter, provisioning center, or safety compliance facility operating in compliance with this act:

- (a) The business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098.
- (b) The nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.
- (c) 1931 PA 327, MCL 450.98 to 450.192.
- (d) The Michigan revised uniform limited partnership act, 1982 PA 213, MCL 449.1101 to 449.2108.
- (e) The Michigan limited liability company act, 1993 PA 23, MCL 450.4101 to 450.5200.
- (f) 1907 PA 101, MCL 445.1 to 445.5.
- (g) 1913 PA 164, MCL 449.101 to 449.106.
- (h) The uniform partnership act, 1917 PA 72, MCL 449.1 to 449.48.

(7) As used in this section:

- (a) "Financial institution" means any of the following:

- (i) A state or national bank.
- (ii) A state or federally chartered savings and loan association.
- (iii) A state or federally chartered savings bank.
- (iv) A state or federally chartered credit union.
- (v) An insurance company.
- (vi) An entity that offers any of the following to a resident of this state:
 - (A) A mutual fund account.
 - (B) A securities brokerage account.
 - (C) A money market account.
 - (D) A retail investment account.
- (vii) An entity regulated by the Securities and Exchange Commission that collects funds from the public.
- (viii) An entity that is a member of the National Association of Securities Dealers and that collects funds from the public.
- (ix) Another entity that collects funds from the public.
- (b) “Financial service” means a deposit; withdrawal; transfer between accounts; exchange of currency; loan; extension of credit; purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument; or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

333.27203 Registered qualifying patient or registered primary caregiver; criminal prosecution or sanctions prohibited; conditions.

Sec. 203.

A registered qualifying patient or registered primary caregiver is not subject to criminal prosecution or sanctions for purchasing marijuana from a provisioning center if the quantity purchased is within the limits established under the Michigan medical marijuana act. A registered primary caregiver is not subject to criminal prosecution or sanctions for any transfer of 2.5 ounces or less of marijuana to a safety compliance facility for testing.

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WHAT IT TAKES TO START, OWN AND OPERATE A SUCCESSFUL CANNABIS BUSINESS IN MICHIGAN

Denise Pollicella



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Cannabis has always been a profitable business, but for the last century, its illegal status has relegated that business to the shadows, and marijuana's prominence in the drug wars as a sinister danger have made it nearly impossible to have an honest conversation about its benefits and risks. Fortunately, thanks to the persistence and tenacity of pro-legalization advocates, perhaps helped along by an increasing awareness of the very serious dangers posed by opioids and other traditional pharmaceuticals, we have seen cannabis legalized for medical or recreational purposes in two-thirds of our states. Along with increased awareness and legalization has come a significant increase in the sheer popularity of all things marijuana, and a virtual explosion of business opportunity with it. However, the US Government's continued treatment of cannabis as a Schedule I Controlled Substance has made owning the cannabis industry a complex proposition even in the most progressive of states. Unfortunately, for those trying to enter the Michigan cannabis market, our state has taken bureaucracy and regulation to a whole new level. For those intrepid entrepreneurs still wanting in on the ground floor, here are the essential elements for starting, owning and operating a successful cannabis business in Michigan.

(1) HAVE A PLAN



As simplistic as it seems, the first thing you need to really ask yourself is whether you really want or need to own a licensed cannabis business. Being a dispensary owner sounds cool, but you absolutely should not do it just because you like marijuana. If you walk into a bar on a busy Saturday night, the owner is not sitting at a corner table, kicking back and drinking. He's the sleep-deprived guy running around off dealing with customer complaints, mediating disputes between the kitchen and waitstaff, cutting off drunk bar guests, and generally looking miserable. It takes a special skill set to own and operate a cash-intensive retail business that sells a federally illegal controlled substance to the general public. You will work a lot of hours, including and especially holidays and weekends. It's that simple. You cannot simply hire somebody to run it for you. First, you probably will not have the capital to hire a good manager right away, but most importantly, nobody, absolutely nobody, will care about your business as much as you do. That means that you will have to be on site as a supervisor for at least the first year or you will not succeed.

Next, you should learn as much as possible about the industry and the licensing process as possible, figure out how much capital you will need, your approximate geographic location, and the type of license you want to hold. Tour licensed facilities. Talk to people in the industry. Attend a reasonable number of legitimate seminars. Look at the application to ensure you qualify to hold a license. Write a business plan. It is a mistake to assume that because you know how the Colorado industry works that you know this one. Michigan's industry is one of the most highly regulated, and it has a fair number of odd quirks. Knowledge is power here, and you will need all that you can get to make good business decisions.

(2) BE FLEXIBLE



Be ready to toss that awesome business plan out the window. Or spend a lot more money than you planned. Or both. Unfortunately, Michigan's marijuana laws have been in a steady state of rapid evolution for a solid two years, and with a new Democratic Administration, new legislature, and a new legalization initiative hot off the presses, there is a better than fair chance that we will see this trend continue. We currently have four primary statutes regulating and licensing the use, possession, manufacture, testing, transportation and sale of cannabis in Michigan. The Michigan Medical Marijuana Act of 2008, or MMMA, regulates private, non-commercial patient and caregiver marijuana conduct. The Medical Marijuana Facilities Licensing Act, or MMFLA, (effective December 20, 2016) regulates the licensing of the commercial medical marijuana industry, with which this article is primarily concerned. The Michigan Regulation of Marijuana and Taxation Act, or MRTMA, (effective December 6, 2018) legalized both private non-commercial recreational use and possession, and a regulated commercial recreational market. The US Farm Bill, MRTMA, and the Michigan Industrial Hemp Research and Development Act,

collectively, the Hemp Laws, legalized the commercial production and sale of industrial hemp, and presumably hemp-derived CBD products.

So far, these laws have been peacefully cohabitating, but we have yet to see the legal recreational cannabis law regulations, and we have experienced some significant upheaval in the licensed medical cannabis industry: four extensions of temporary operations for unlicensed facilities with pending applications (two of those by court action), several statutory amendments, and the recent abolition of the Medical Marihuana Licensing Board and Marihuana Advisory Panel. We can look forward to numerous legislative amendments to one or all of these statutes, along with near-constant regulatory, administrative and policy changes for the next several years. If you do not like roller coasters and you are not prepared to adapt with these changes, this is not the industry for you at this time.

(3) HAVE LOTS OF MONEY



Starting your own business is expensive. Starting a cannabis business in Michigan is outrageously expensive. Whether by accident or design, it is prohibitively expensive for most people. Capitalization requirements run between \$150,000 and \$500,000 per license. The way it works, though, is that you have to have this capitalization available both when you file your Step 1 prequalification application and when you file your Step 2 facility license application. You cannot spend it, and you can never reuse it. In other words, you must hold between \$150,000 and \$500,000 in unencumbered assets, per license, and still purchase or lease your facility, have it fully permitted, build it out, and have it turn key and ready for inspection, all without using your capital. When you are approved for a state license, you immediately owe a rather large annual assessment fee which you must pay in order to receive your license, and every year thereafter in order to renew your license.

Most municipal permits are \$5,000.00 annually because that is the statutory cap. The state license fee is \$6,000 per application. You will need a qualified Michigan attorney, a qualified CPA, and a licensed Michigan architect. You will need a state of the art security system, marketing, trademark services, a compliance officer, and trade fixtures. If you are vying for a provisioning center permit in a municipality with a competitive selection process, you will need a significant amount of money for the application, the site plans and the community benefits contributions. This is all before you start operating and paying for lab testing, which runs about \$400 per test, and secured transportation fees, which as of this writing hover near 10% of the gross wholesale price of marijuana.

If you are not prepared to expend a significant amount of capital, you may want to consider a tier one supply business instead. The Michigan cannabis industry requires product and service support, and there is much business to be done and money to be made in the tier one and tier two sectors that do not require licensing, regulatory fees or mortgaging your first born.

(4) GET PROFESSIONAL HELP

Well, professional service support, at least. The legal risk, financial risk and tax implications of owning and operating a cannabis business cannot be ignored, and this is not the time to bargain hunt for professional services. If you are reticent to spend money on a licensed Michigan CPA or on a qualified and experienced Michigan licensed business and regulatory attorney, you are not willing to give your cannabis start-up the support and attention it needs to thrive. Remember that attorneys and CPA's are subject to ethical and legal obligations that are designed to protect our clients, and we take those obligations seriously.



There is no question that you will be spending what feels like endless amounts of money in start-up fees before you ever see a dollar of revenue, but without the proper foundation, your business will not survive, let alone succeed. The regulations will be more onerous than you realize, and the profit margins will be smaller than you thought they would be. You need to be able to concentrate your efforts on the business of growing your company without worrying that you are running afoul of the tax code or structuring a partnership that has no hope of being approved by the new Marihuana Regulatory Agency. The long term cost of failing to hire the right professionals is simply too high, and there are, happily, many very qualified and experienced attorneys, CPA's, and other professionals available to Michigan's cannabis industry.

(5) KEEP A SENSE OF ADVENTURE

This industry is an entrepreneur's dream. It has just enough risk to be off-putting for most of us nine-to-five folk, and a huge potential for return. Every day the news is reporting another pot baron making another multi-million dollar deal, another Canadian IPO, another celebrity product line. This is an exciting time in one of the highest cannabis consuming markets in the world. It is fun to watch the new dispensaries try to outdo one another in unique and cool themes and décor. It will be even more fun to watch the United States finally turn into a sensible, cannabis-friendly country, not only from a social and economic perspective, but from a social justice and medical perspective. If you manage to get into this industry as a licensed owner operator, you will need to maintain that entrepreneurial sense of adventure to remain competitive. Best of luck.



A graduate of the University of Michigan and Wayne State Law, Denise Pollicella's 21 years of private and corporate practice have focused on Business Transactions, Mergers & Acquisitions, Labor & Employment, Regulatory & Licensing, and Corporate Law. Managing Partner of Pollicella & Associates, PLLC, she founded Cannabis Attorneys of Michigan in 2009 to advance marihuana law in Michigan.

ALTERNATIVE DISPUTE RESOLUTION (ADR): WHY IT SHOULD BE THE PREFERRED METHOD TO RESOLVE CANNABIS DISPUTES

Timothy Lessing



INTRODUCTION

Michigan's rapidly evolving cannabis industry has sometimes been analogized to the business atmosphere that existed in the gold rush and pioneering days of the mid-nineteenth century. While these loose comparisons amount to little more than hyperbole, they are not entirely unwarranted analogies. For businesses properly poised to capitalize on Michigan's new cannabis frontier, there are near limitless profit potential opportunities. Unfortunately, the cannabis industry in Michigan also bears many of the less desirable similarities of the same era. Time remains absolutely critical for success, fierce competition exists at every turn, and there is an unsteady underlying legal framework that is inadequate to address the needs of the industry. These inherent difficulties bring into sharp focus the need to utilize Alternative Dispute Resolution (ADR) as a primary method to rapidly resolve conflict in Michigan's cannabis industry.

LEGISLATIVE BACKGROUND

There remains an ever-present level of uncertainty and confusion regarding the future of the cannabis in federal law. Despite clear evidence of a change in sentiment among Americans, cannabis remains illegal under federal law. At the state level, Michigan's Medical Marihuana Act (MMMA), the Medical Marihuana Facilities Licensing Act (MMFLA), and the newly enacted recreational use laws, come together to create a legal environment that changes on a near month-to-month basis (often more frequently). Local municipalities are also concurrently developing their own legislative framework through ordinances and zoning laws that are sometimes significantly different than those enacted in other municipalities. This lack of cohesion and consistency amongst municipalities is particularly troubling because most legal experts believe the real "power" in Michigan cannabis law is at the local municipality level.

Despite the legislative uncertainty and rapid change present in Michigan's cannabis industry, the entrepreneurial rush to be "first to market" continues unabated, and a few important lessons are now clear. First, speed and agility are vital for any business hoping to develop opportunities and profit in Michigan's cannabis environment. Similarly, it is critical that businesses secure and maintain working capital to continue building current ventures and immediately react to new opportunities as they emerge. Finally, with the inevitable disputes that arise as competing businesses clash in a rapidly developing industry, many are learning that privacy and a "clean" background for MMFLA and municipal license approval can be a significant barrier to entry if those disputes are not handled properly.

LITIGATION

Unlike the days when a six shooter and quick draw were the "speedy" method for resolving a dispute, we now have a complex legal system that is far from ideal in addressing the needs of Michigan's cannabis industry. Litigation is an expensive process riddled with inefficiencies and hampered by delays. Despite these drawbacks, litigation is still occasionally effective as a tool for conflict resolution under the right circumstances. When viewed through the lens of the cannabis industry, however, the forgoing issues are all compelling reasons to consider litigation an option of last resort.

Federal District Courts are already functionally inaccessible because cannabis remains illegal under federal law. This leaves only state courts for litigating business disputes. Unfortunately, even Michigan's most efficient District Courts (disputes less than \$25,000) are still averaging a minimum of nine to twelve months before any resolution in a business dispute. For more significant disputes in excess of \$25,000, the outlook for a speedy and cost-effective resolution is quite grim with the average Circuit Court case easily taking eighteen to twenty-four months before any resolution.

During litigation, the parties typically engage in an extensive discovery process (depositions, document production, and interrogatories) which consumes valuable time and money. Throughout this pretrial process, neither party has any definitive resolution, and everyone must wait for the case to run its lengthy course. Even with a "win" at trial, there remains an automatic right of appeal which could easily burn

through another one or two years as the case winds its way through the appellate system. It requires no special business acumen, to understand that the litigation process can often be a terrible waste of time, resources, and opportunities lost.

ADR

Fortunately for Michigan's cannabis industry, ADR has quietly reemerged as an efficient and effective solution for many of the problems that haunt litigation. Better yet, the only requirement to engage pre-litigation ADR is an agreement between the parties and the selection an attorney to assist in the process. There are generally two types of ADR. One is focused on resolution through settlement and the other is focused on resolution by adjudicating the issues in dispute. Settlement focused ADR is usually called facilitation (less commonly called mediation), and adjudication focused ADR is almost always called arbitration. Facilitations generally involve the parties meeting to engage in formal settlement discussions under the direction of a seasoned attorney facilitator. Arbitrations can take several forms depending on whether it is considered binding or non-binding and the number of arbitrators involved. In its simplest form, and arbitration involves the parties submitting the issues to an attorney who serves as the quasi judge/jury and renders an arbitration award ("verdict") on the merits of the case. In either situation, the parties utilize the assistance of an independent attorney who specializes in Alternative Dispute Resolution and the areas of law at issue. When used properly, the ADR process has all the qualities necessary to be an ideal solution for business disputes in the cannabis industry.

TIME CONSIDERATIONS

The amount of time saved through the ADR process represents one of the most significant benefits. Most facilitations/mediations can be scheduled to occur in thirty to sixty days and take less than 3-4 hours to complete once the scheduled day arrives. Likewise, after scheduling issues are addressed, most arbitrations are completed in less than a day. Even complex arbitrations (with multiple witnesses and exhibits) are comparatively faster than presenting the same evidence to a jury in trial. This is because the rigors and formalities of the Rules of Evidence and Court Rules can be abbreviated or bypassed entirely in ADR, allowing the parties to get right to the core of the matter with an Arbitrator who already understands the law involved. When contrasted with the previously discussed litigation timelines, it is easy to understand the clear advantage held by ADR. In the fast-paced world of Michigan's current cannabis industry, time is literally money, and the importance of ADR's time superiority cannot be overstated.

COST CONSIDERATIONS

From a cost perspective, the benefits of ADR are also significant when compared to litigation. Those unnecessary and protracted months of litigation eventually add up to one whopping legal bill. By contrast, most of these costs do not exist in the ADR format because the amount of time spent on the process is fundamentally abbreviated. Moreover, an experienced attorney specializing in ADR and the area of law at issue can

often facilitate and resolve the dispute in just a few hours. As an added benefit, this cost is normally split evenly by the parties, further reducing the cost.

Sooner or later, in nearly all business dispute cases, the parties will sit down (voluntarily or by court order) and at least try to work towards a compromise. While early ADR may not resolve the conflict, it is almost always a positive step toward resolution. Even an unsuccessful early ADR engagement helps narrow the issues and leaves open the possibility of a second attempt at early ADR or litigation. In short, it is only in the enormously rare case where early engagement in ADR does not make sound business sense for all involved parties.

PRIVACY CONSIDERATIONS

One of the less obvious benefits of utilizing ADR stems from the private nature of the proceedings. In the context of cannabis business disputes, a private resolution can be critically important because the MMFLA and municipal licensing requirements do not appear to mix well with a history of litigation in business disputes. While it remains uncertain what role, if any, prior litigation will continue to play in any specific application, more than a few applicants have already encountered difficulty getting approved because they have a history of business litigation.

Separately, there is also a compelling argument for a private ADR rather litigation, which is entirely open to the general public. Additionally, in our technologically advanced society, any fact made public will remain public forever. These concerns alone should form an enormously strong incentive to resolve disputes privately through ADR whenever possible.

CONCLUSION

Michigan's cannabis industry is evolving rapidly and the modern litigation process is not always an effective tool for resolving the inevitable disputes that arise. Fortunately, ADR is a viable alternative that is often far superior to litigation. ADR helps cannabis businesses save time and retain precious capital which can be utilized for new business ventures. Moreover, given that most judges eventually require formal settlement negotiations anyway, there is rarely a rational justification for bypassing early ADR. In any event, the manifest savings in money, time, reputation, and anxiety cannot reasonably be disputed.

Timothy Lessing is the Managing Member of Lessing Legal, PLLC and Cannabis Business Dispute Resolution Center. He has over twenty years of legal experience and maintains a highly specialized legal practice devoted exclusively to three areas: (1) Serving as a Facilitator/Arbitrator (2) A seasoned Trial Attorney and (3) As a Litigation & Appellate Consultant with a practice limited exclusively to being retained by other law firms/attorneys on civil/criminal matters to address either a specific complex litigation issue or to handle the Oral Argument on appeal in State/Federal court. He is also Consultant, Speaker/Lecturer, and occasional Author on topics relating to Litigation and ADR and an inaugural member of the Michigan State Bar Marijuana Law Section.

MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT (EXCERPT) INITIATED LAW 1 OF 2018

333.27952 Purpose and intent.

Sec. 2.

The purpose of this act is to make marihuana legal under state and local law for adults 21 years of age or older, to make industrial hemp legal under state and local law, and to control the commercial production and distribution of marihuana under a system that licenses, regulates, and taxes the businesses involved. The intent is to prevent arrest and penalty for personal possession and cultivation of marihuana by adults 21 years of age or older; remove the commercial production and distribution of marihuana from the illicit market; prevent revenue generated from commerce in marihuana from going to criminal enterprises or gangs; prevent the distribution of marihuana to persons under 21 years of age; prevent the diversion of marihuana to illicit markets; ensure the safety of marihuana and marihuana-infused products; and ensure security of marihuana establishments. To the fullest extent possible, this act shall be interpreted in accordance with the purpose and intent set forth in this section.

333.27954 Scope of act; unauthorized activities with marihuana and marihuana accessories; limitations; application of privileges, rights, immunities, and defenses under other marihuana laws; employer rights; property owner rights.

Sec. 4.

1. This act does not authorize:

- (a) operating, navigating, or being in physical control of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat while under the influence of marihuana;
- (b) transfer of marihuana or marihuana accessories to a person under the age of 21;
- (c) any person under the age of 21 to possess, consume, purchase or otherwise obtain, cultivate, process, transport, or sell marihuana;
- (d) separation of plant resin by butane extraction or another method that utilizes a substance with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within the curtilage of any residential structure;
- (e) consuming marihuana in a public place or smoking marihuana where prohibited by the person who owns, occupies, or manages the property, except for purposes of this subdivision a public place does not include an area designated for consumption within a municipality that has authorized consumption in designated areas that are not accessible to persons under 21 years of age;

(f) cultivating marihuana plants if the plants are visible from a public place without the use of binoculars, aircraft, or other optical aids or outside of an enclosed area equipped with locks or other functioning security devices that restrict access to the area;

(g) consuming marihuana while operating, navigating, or being in physical control of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat, or smoking marihuana within the passenger area of a vehicle upon a public way;

(h) possessing marihuana accessories or possessing or consuming marihuana on the grounds of a public or private school where children attend classes in preschool programs, kindergarten programs, or grades 1 through 12, in a school bus, or on the grounds of any correctional facility; or

(i) Possessing more than 2.5 ounces of marihuana within a person's place of residence unless the excess marihuana is stored in a container or area equipped with locks or other functioning security devices that restrict access to the contents of the container or area.

2. This act does not limit any privileges, rights, immunities, or defenses of a person as provided in the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430, the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801, or any other law of this state allowing for or regulating marihuana for medical use.

3. This act does not require an employer to permit or accommodate conduct otherwise allowed by this act in any workplace or on the employer's property. This act does not prohibit an employer from disciplining an employee for violation of a workplace drug policy or for working while under the influence of marihuana. This act does not prevent an employer from refusing to hire, discharging, disciplining, or otherwise taking an adverse employment action against a person with respect to hire, tenure, terms, conditions, or privileges of employment because of that person's violation of a workplace drug policy or because that person was working while under the influence of marihuana.

4. This act allows a person to prohibit or otherwise regulate the consumption, cultivation, distribution, processing, sale, or display of marihuana and marihuana accessories on property the person owns, occupies, or manages, except that a lease agreement may not prohibit a tenant from lawfully possessing and consuming marihuana by means other than smoking.

5. All other laws inconsistent with this act do not apply to conduct that is permitted by this act.

333.27955 Lawful activities by person 21 years of age or older; terms, conditions, limitations, and restrictions; denial of custody or visitation prohibited.

Sec. 5.

1. Notwithstanding any other law or provision of this act, and except as otherwise provided

in section 4 of this act, the following acts by a person 21 years of age or older are not unlawful, are not an offense, are not grounds for seizing or forfeiting property, are not grounds for arrest, prosecution, or penalty in any manner, are not grounds for search or inspection, and are not grounds to deny any other right or privilege:

(a) except as permitted by subdivision (b), possessing, using or consuming, internally possessing, purchasing, transporting, or processing 2.5 ounces or less of marihuana, except that not more than 15 grams of marihuana may be in the form of marihuana concentrate;

(b) within the person's residence, possessing, storing, and processing not more than 10 ounces of marihuana and any marihuana produced by marihuana plants cultivated on the premises and cultivating not more than 12 marihuana plants for personal use, provided that not more than 12 marihuana plants are possessed, cultivated, or processed on the premises at once;

(c) assisting another person who is 21 years of age or older in any of the acts described in this section; and

(d) giving away or otherwise transferring without remuneration up to 2.5 ounces of marihuana, except that not more than 15 grams of marihuana may be in the form of marihuana concentrate, to a person 21 years of age or older, as long as the transfer is not advertised or promoted to the public.

2. Notwithstanding any other law or provision of this act, except as otherwise provided in section 4 of this act, the use, manufacture, possession, and purchase of marihuana accessories by a person 21 years of age or older and the distribution or sale of marihuana accessories to a person 21 years of age or older is authorized, is not unlawful, is not an offense, is not grounds for seizing or forfeiting property, is not grounds for arrest, prosecution, or penalty in any manner, and is not grounds to deny any other right or privilege.

3. A person shall not be denied custody of or visitation with a minor for conduct that is permitted by this act, unless the person's behavior is such that it creates an unreasonable danger to the minor that can be clearly articulated and substantiated.

333.27965 Violations; penalties.

Sec. 15.

A person who commits any of the following acts, and is not otherwise authorized by this act to conduct such activities, may be punished only as provided in this section and is not subject to any other form of punishment or disqualification, unless the person consents to another disposition authorized by law:

1. Except for a person who engaged in conduct described in sections 4(1)(a), 4(1)(b), 4(1)(c), 4(1)(d), 4(1)(g), or 4(1)(h), a person who possesses not more than the amount of marihuana allowed by section 5, cultivates not more than the amount of marihuana allowed by section 5, delivers without receiving any remuneration to a person who is at least 21 years of age not more than the amount of marihuana allowed by section 5,

or possesses with intent to deliver not more than the amount of marihuana allowed by section 5, is responsible for a civil infraction and may be punished by a fine of not more than \$100 and forfeiture of the marihuana.

2. Except for a person who engaged in conduct described in section 4, a person who possesses not more than twice the amount of marihuana allowed by section 5, cultivates not more than twice the amount of marihuana allowed by section 5, delivers without receiving any remuneration to a person who is at least 21 years of age not more than twice the amount of marihuana allowed by section 5, or possesses with intent to deliver not more than twice the amount of marihuana allowed by section 5:

(a) for a first violation, is responsible for a civil infraction and may be punished by a fine of not more than \$500 and forfeiture of the marihuana;

(b) for a second violation, is responsible for a civil infraction and may be punished by a fine of not more than \$1,000 and forfeiture of the marihuana;

(c) for a third or subsequent violation, is guilty of a misdemeanor and may be punished by a fine of not more than \$2,000 and forfeiture of the marihuana.

3. Except for a person who engaged in conduct described by section 4(1)(a), 4(1)(d), or 4(1)(g), a person under 21 years of age who possesses not more than 2.5 ounces of marihuana or who cultivates not more than 12 marihuana plants:

(a) for a first violation, is responsible for a civil infraction and may be punished as follows:

(1) if the person is less than 18 years of age, by a fine of not more than \$100 or community service, forfeiture of the marihuana, and completion of 4 hours of drug education or counseling; or

(2) if the person is at least 18 years of age, by a fine of not more than \$100 and forfeiture of the marihuana.

(b) for a second violation, is responsible for a civil infraction and may be punished as follows:

(1) if the person is less than 18 years of age, by a fine of not more than \$500 or community service, forfeiture of the marihuana, and completion of 8 hours of drug education or counseling; or

(2) if the person is at least 18 years of age, by a fine of not more than \$500 and forfeiture of the marihuana.

4. Except for a person who engaged in conduct described in section 4, a person who possesses more than twice the amount of marihuana allowed by section 5, cultivates more than twice the amount of marihuana allowed by section 5, or delivers without receiving any remuneration to a person who is at least 21 years of age more than twice the amount of marihuana allowed by section 5, shall be responsible for a misdemeanor, but shall not be subject to imprisonment unless the violation was habitual, willful, and for a commercial purpose or the violation involved violence.

WHAT IS A MARIJUANA MICROBUSINESS

Scott F. Roberts

As part of the ballot initiative to legalize recreational marijuana, the Michigan Regulation and Taxation of Marihuana Act (MRTMA), a new license type was created specifically for those who do not already have MMFLA licensing. This license type is called the Microbusiness. The Microbusiness license allows a person to grow up to 150 plants, process the flower into extracts and edibles, and sell directly to the recreational marijuana consumer. In other words, the Microbusiness allows for small scale vertical integration all under one license.

License Restrictions

There are restrictions applicable to Michigan Microbusinesses. As a microbusiness licensee, you cannot buy from other licensees or caregivers, and can only sell directly to the consumer. You also have to grow and process under one roof, though not necessarily sell from that location—that is still to be determined.

There are also restrictions on who can own a microbusiness license in Michigan. If you own a Microbusiness, you cannot have an ownership interest in any other Michigan recreational marijuana license, and you are limited to only owning one microbusiness. The MRTMA does provide for LARA to allow microbusiness owners to hold stakes in more than one microbusiness after January 1, 2023, though there is no guarantee that it will do so. Finally, the MRTMA restricts microbusiness applicants to Michigan residents for the first 24 months after LARA starts accepting recreational marijuana license applications.

Municipalities

Michigan is not the only state that allows for a microbusiness license, though its statute is a bit different than other states such as California and Nevada. In California, hundreds of microbusinesses have opened up, though only a few have opened up in Nevada.

The main reason for the lack of microbusinesses in Nevada is municipal zoning. While municipal zoning will also be a potential bottleneck in Michigan, we do believe we won't face the same problems Nevada is facing due to one of the more unique aspects of Michigan's recreational marijuana law. Unlike many other states, the MRTMA financially incentivizes municipalities to allow microbusinesses, which should help Microbusiness owners overcome the zoning issues seen in other states. The MRTMA divvies up a municipality's and county's share of the 10% excise tax based on how many total dispensaries

and microbusinesses are licensed in the municipality. This means cities and townships will be financially incentivized to allow microbusinesses to proliferate in their borders as they get more “bang for their buck” with microbusinesses compared to dispensaries.

One avenue available to aspiring microbusiness owners is the municipal petition process. If a municipality does not opt-in to allow microbusinesses, then residents can petition the municipality to adopt an ordinance. The proposed ordinance would then be voted on by the municipality’s residents at the next election, and if approved by a majority of residents, will be enacted as if passed by the municipality. This will allow microbusiness owners to circumvent municipal governments who refuse to allow recreational marijuana facilities in their municipalities.

For microbusinesses more so than other license types, the rules of the road will likely be determined at the municipal level instead of the state level. To illustrate this concept, one of the business models getting the most attention in Michigan, as well as other states that have similar microbusiness laws, is the Cannabis Lounge. This business model relies on a municipality allowing public consumption on the premises. While there may be a “private member” work-around to this, the municipality could nonetheless pass an ordinance that restricts Cannabis sales on property where private consumption is allowed.

Depending on your business model, an unfriendly municipality has the ability to essentially regulate your microbusiness to death. While there are restrictions in the MRTMA that prevent municipalities from enacting “unreasonably impractical” regulations that restrict microbusinesses or other license types, we simply don’t know what will be considered “unreasonably impractical”. This will be something Michigan courts will have to decide, and as previous court decisions illustrate, many state judges simply don’t understand the marijuana industry.

As a result, engaging your municipality and crafting rules favorable to your respective business model will, therefore, be key to your long-term success. Because municipalities generally do not make these sort of decisions quickly, now is the time for potential microbusiness owners to open up a dialogue with these municipalities to begin the process of opting into microbusiness license types and crafting ordinances that will allow their microbusinesses to flourish.

Opportunities

The Michigan Microbusiness license was designed to provide opportunities for caregivers and other “mom and pop” business owners to enter the Michigan

recreational market without needing to meet high capitalization requirements or spend millions of dollars on property. There are many business models that could be utilized by microbusiness owners, the most popular of which are the Cannabis Lounge (a/k/a “coffee shop”) and a taste-and-tour model similar to a winery.

While these are the most popular business models, there are several other models that may be successful here in Michigan, ranging from a traditional delivery concept, to more outside-the-box ideas such as marijuana-themed yoga studios and spas, marijuana-themed event spaces, and cannabis bakeries to name a few. The only limit on the potential business models available is your imagination.

In addition, unlike other marijuana licenses, with microbusinesses there can be strength in numbers. While a stand-alone microbusiness may not be able to compete with a dispensary on price or selection, a collective of microbusinesses would be able to do so. Similar to how a bar does better when there are other bars in an area, there may be opportunities for microbusiness owners to cooperate in a microbusiness collective where each sells complementary products. Members of the collective could also share many of their operating expenses, such as marketing and advertising, cultivation staff, and more.

Conclusion

The marijuana microbusiness license provides an opportunity for those otherwise shut out of the licensed market to enter Michigan’s cannabis industry. Whether you are a caregiver slowly being shut out of the state’s legal cannabis market, a small business owner looking to add a new twist to your business, or simply an aspiring cannabis entrepreneur looking for the right opportunity, the marijuana microbusiness may be your avenue to entering the market and creating a sustainable, long-term cannabis business here in Michigan.

Mr. Roberts is the founder and managing member of Scott F. Roberts Law, PLC, a Detroit-based business law firm. Upon being admitted to the Michigan Bar in 2010, Mr. Roberts went to work as a corporate and healthcare attorney for the Detroit-based law firm of Dickinson Wright. In 2014, he left the firm to start his own business practice, Scott F. Roberts Law, PLC. After passage of the Medical Marijuana Facilities Licensing Act, or MMFLA, Mr. Roberts expanded his practice area to include Marijuana Business Law. Mr. Roberts is a member of the Business Law and Marijuana Law sections of the State Bar. Prior to being admitted to the Michigan Bar, Mr. Roberts attended the University of Miami School of Law, graduating in 2010 with high honors.



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GIFTING OF CANNABIS

Bernard Jocuns

Creative marihuana gifting schemes are flourishing in Michigan, but at a substantial risk of prosecution. Budding entrepreneurs use variations on a common theme: charge a premium price for a non-marihuana item – everything from a painting¹ to a pizza – and “throw in” some marihuana “as a free gift.” Of course, the marihuana isn’t actually free, and it isn’t really a gift.

The idea behind such schemes is to sidestep the more than one-year gap between passage of Michigan’s Proposal 1² and its implementation, which isn’t due to occur until early 2020. Currently, although adults can finally legal smoke, eat or drink marihuana in Michigan, they cannot legally buy it. So, creative marihuana entrepreneurs are betting that MCL 333.27955(1)(d), also known as “Section 5(1)(d)” of MRTMA (the “Michigan Regulation and Taxation of Marihuana Act”) offers them legal protection from prosecution. MCL 333.27955(1)(d) states, in pertinent part:

1. Notwithstanding any other law or provision of this act, and except as otherwise provided in section 4 of this act, **the following acts** by a person 21 years of age or older are not unlawful, are not an offense, **are not grounds for seizing or forfeiting property**, are not grounds for **arrest, prosecution, or penalty** in any manner, are not grounds for **search or inspection**, and are not grounds to **deny any other right or privilege**:

(d) **giving away or otherwise transferring without remuneration up to 2.5 ounces of marihuana**, except that not more than 15 grams of marihuana may be in the form of marihuana concentrate, to a person 21 years of age or older, **as long as the transfer is not advertised or promoted to the public.** Id. (emphasis added).

So, superficial compliance with Section 5(1)(d)’s “gifting workaround” requires, at minimum, the following:

1. That both the gifter and the giftee are 21 years of age or older;
2. That the quantity not exceed 2.5 ounces actual marihuana or 15 grams of marihuana concentrate;

¹ The Michigan business named “[The Cannabis Artist](#)” is doing just that – offering artwork, along with marihuana “gifts” and free muffins, cookies, sour candies and hot fries, apparently in an attempt to camouflage the marihuana “gift.” “[The Cannabis Artist](#)” just opened an Ann Arbor location.

² Proposal 1 was approved by Michigan voters on November 6, 2018.

3. That no money changes hands regarding the transfer, as to the marihuana; and
4. That the transfer is not advertised or promoted to the public.

In practical application, MCL 333.27955(1)(d) is a landmine for the unwary and unsavvy. At first blush, compliance with the 21-year-old bookend requirement appears to be a no-brainer – if you’re a gifter, be 21 or over, and don’t gift to anyone younger than 21. But since it’s legal to possess only 2.5 ounces of marihuana in Michigan, you’ll need a “straw man” to supply the marihuana, and some schemes are conscripting unsuspecting medical marihuana patients or caregivers (who can possess up to 72 plants)³ to essentially “gift off” their excess, such as “

”⁴ But if the straw man (who is often also tasked with accomplishing the actual delivery, via vehicle drop off at an agreed-upon location) is under 21, the entire transaction runs afoul of MCL 333.27955(1)(d)’s 21 year age mandate, exposing both the business itself and its drivers / suppliers to legal jeopardy.

The 2.5-ounce quantity limit presents another potentially serious problem for gifters and 10 ounces per household under MRTMA.. As with medical marihuana, “unusable” marihuana under Section 5(1)(d) is not “counted” towards the 2.5 ounce limit.⁵ But if a transaction garners the attention of the police for any reason whatsoever (e.g., bad vehicle taillight, flat tire, et cetera), and the delivered “gift” exceeds 2.5 ounces yet contains a substantial percentage of stems, seeds and root material, the gifter and its agents could all face felony charges – and be forced to convince a court that those stems, seeds and root material should not be “counted” towards their 2.5 ounce limit.

The transparency of the transaction stream would be easily exposed by a savvy prosecutor. Clearly, a cheap paperback book with a street value of ten cents isn’t going to command a sixty-five to four-hundred-dollar price point, and the intent of the parties in consummating such as purchase is palpably to accomplish the marihuana “gift.” Victor Fitz, Cass County Prosecutor, advises that prosecutors will “have to evaluate the reason for the purchase,” stating:

Certainly, when you’re gifting marijuana as part of the incentive of a transaction, that can very easily be interpreted that you are doing it for profit[.] See note 2, ante.

As if the above hurdles weren’t enough, perhaps the most difficult component of compliance with the “gifting workaround” is its ban on “promotion or advertising.”

³ See Michigan Medical Marihuana Act Section 4.

⁴ Brooke O’Daniel, WSBT 22 Reporter, February 18th 2019. She discusses “_____” which sells randomly selected, cheap paperback books at premium prices, including a marihuana “gift” with each purchase.

⁵ See *People v Manuel*, <https://caselaw.findlaw.com/mi-court-of-appeals/1857277.html>

Inasmuch as the traditional, advertising industry definitions of “promotion” and “advertising” are plastic in the age of social media, many seemingly innocuous pursuits (e.g., a Girl Scout style bake sale) could be construed by a jury as comprising one or both of these verboten activities, especially in the hands of a skilled and convincing prosecutor.

Ann Arbor’s _____ is one such service. It employs medical marijuana patients as delivery drivers and gives them “the option to present a free gift (to customers), and most of them choose to gift cannabis[.]”⁶ _____ attempts to insulate itself from criminal prosecution, putting all the exposure and risk on its drivers. It freely admits:

We hire independent contractors who source their own cannabis, and they sell their own stuff. We don’t buy it; we don’t touch it. The only thing we buy or sell is chocolate.⁷

Perhaps the biggest risk for enterprising marihuana gifters may be the rejection of their eventual license application by LARA⁸ due to their gifting activity. It’s a safe bet that the Michigan Legislature did not intend for marihuana caregivers to “gift” their marihuana allotment in this fashion.⁹ So, today’s marihuana gifting business will undoubtedly show up on LARA’s radar screen when the gifting business applies for one of the many types of adult-use licenses (transportation, growing, etc.) that LARA controls the outcome of. Legal or not, is potentially incurring LARA’s wrath worth the allure of short-term profit via a disappearing business model? How will LARA view the transportation license application of today’s marihuana gifter a year from now, when that very same business became well known 10 for delivering a fake Picasso and some hash brownies for \$350?

Cass County Prosecutor Victor Fitz advised entrepreneurs to tread cautiously:

Certainly, when you’re gifting marijuana as part of the incentive of a transaction, that can very easily be interpreted that you are doing it for profit ...It’s wise for people to follow the law. Tread softly and be cautious. The step you make may end up in causing you to be in court resulting in a civil infraction, a misdemeanor, or even a felony conviction.

Michigan attorney Bernard A. Jocuns specializes in all aspects of marihuana law. He is available for consultation to prospective marihuana gifters and others involved in this nascent venture.

⁶ According to an attorney for _____, as told to the Michigan Daily.

⁷ *Id.*

⁸ LARA is Michigan’s Bureau of Licensing and Regulatory Affairs. It determines the outcome of marihuana licensing applications.

⁹ The legislative intent was probably to permit friends to share in a communal marihuana smoking experience without risk of prosecution.



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385 West Nepessing Street
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Fax: (810) 245-6846

bernard@bernardjocuns.org
www.bernardjocuns.org



Founder Marijuana Law Section of the State Bar of Michigan

Author/ Editor Medico Legal Aspects of Marijuana in Michigan
(release date June 2019) Lawyers & Judges Publishing Company

MICHIGAN ELIGIBLE CONDITIONS

The debilitating medical condition that qualify an individual for the medical use of marijuana includes 1 or more of the following:

- **Cancer**
- **Glaucoma**
- **HIV Positive**
- **AIDS**
- **Hepatitis C**
- **Amyotrophic Lateral Sclerosis**
- **Crohn's Disease**
- **Agitation of Alzheimer's Disease**
- **Nail Patella**
- **Post - Traumatic Stress Disorder**
- **Obsessive Compulsive Disorder**
- **Arthritis**
- **Rheumatoid Arthritis**
- **Spinal Cord Injury**
- **Colitis**
- **Inflammatory Bowel Disease**
- **Ulcerative Colitis**
- **Parkinson's Disease**
- **Tourette's Disease**
- **Autism**
- **Chronic Pain**
- **Cerebral Palsy**
- **A chronic or debilitating disease or medical condition or its treatment that produces 1 or more of the following:**
 - **Cachexia or Wasting Syndrome**
 - **Severe and Chronic Pain**
 - **Severe Nausea**
 - **Seizures (Including but not limited to those characteristic of epilepsy)**
 - **Severe and Persistent Muscle Spasms (Including but not limited to those characteristic of multiple sclerosis)**

FREQUENTLY ASKED QUESTIONS



MMMA - Q & A

QUESTION: How much is the application fee?

ANSWER: Patient fee: \$60. If designating a caregiver, include an additional \$25 caregiver fee. The application fee should be a check or money order made payable to: State of Michigan- MMMP.

QUESTION: When does a patient registry identification card expire?

ANSWER: A patient registry identification card is valid for two years. The expiration date is listed on the patient registry identification card. Caregiver's cards expire on the same date as each of his/her patients.

QUESTION: Can I obtain a medical marihuana card if I have firearms?

ANSWER: The Michigan Medical Marihuana Act does not address ownership or possession of a firearm. There may be other state and/or Federal statutes which address this issue. Michigan citizens are required to obey all state and Federal laws. Therefore, you should contact Michigan State Police regarding firearm regulations if applying for or continuing to maintain a medical marihuana registry ID card.

QUESTION: Will my medical insurance cover medical marihuana?

ANSWER: The MMMA does not require a government medical assistance

MMFLA - Q & A

QUESTION: What impact does the implementation of MMFLA have on patients or caregivers operating under the MMMA?

ANSWER: The Michigan Medical Marijuana Act (2008) implemented the patient/caregiver model that still remains in effect today and is unchanged by the Medical Marijuana Facilities Licensing Act (2016). Registered patients may continue to grow their own medical marijuana – or they may continue to have a caregiver grow it for them – under the 2008 law.

The MMFLA did not change the possession limits for medical marijuana patients or caregivers. Possession limits are 2.5 ounces of marijuana product and 12 marijuana plants in an enclosed, locked facility – per patient. The MMFLA does, however, give registered patients another method to acquire their medicine.

Under the MMFLA, registered patients – in addition to growing their own medical marijuana – may buy it from a licensed facility or they may have a caregiver buy it for them; both caregivers and patients are still subject to the daily purchasing limit at those facilities. For a registered qualifying patient, the current daily purchasing limit is 2.5 ounces per day. For a registered primary caregiver, the current daily purchasing limit is 2.5 ounces per day for each registered qualifying patient with whom he or she is connected through the MMMP.

QUESTION: How will the MMFLA directly or indirectly impact the current MMMP industry?

ANSWER: The Michigan Medical Marijuana Act, 2008 IL 1, sets forth a patient/caregiver model that remains in effect and is unchanged by the Medical Marijuana Facilities Licensing Act (MMFLA), 2016 PA 281. For patient/caregivers wishing to transition from that model and open a marijuana facility under the provisions of the MMFLA, please refer to the advisory bulletin posted on November 17, 2017.

QUESTION: Can plants or other marijuana product be bought from caregivers?

ANSWER: The patient-caregiver model is still in effect. Registered primary caregivers may still grow for their assigned patients, and/or purchase products from a provisioning center on behalf of their assigned patients.

PROPOSAL 1 - Q & A

QUESTION: What does proposal 1 Do?

ANSWER: Proposal 1 allows adults aged 21 and older to possess up to 2.5 ounces of marijuana. Within a residence, adults will be permitted to grow up to twelve marijuana plants and/or possess up to ten ounces of marijuana (provided that any amount greater than 2.5 ounces is stored under lock and key). Violations of the law would result in civil infractions or criminal charges, depending on the severity of the offense.

Proposal 1 establishes a legal framework for licensing and regulating marijuana businesses in Michigan including cultivators and dispensaries. The initiative requires all marijuana and marijuana products to be tested for safety and includes strict tracking requirements to ensure that marijuana is not diverted into the unregulated market.

Proposal 1 allows cities and towns to regulate, ban, or limit the number of marijuana businesses in the community.

Proposal 1 establishes a 10% tax on marijuana products in addition to Michigan's 6% sales tax. Proposal 1 will generate \$738 million in tax revenue by 2023, according to the Michigan Senate Fiscal Agency. The revenue will be allocated to roads, schools, local governments, and PTSD research.

Under Proposal 1, Michigan's state government will create regulations on: labeling and packaging of marijuana and marijuana products; and the advertising and marketing of marijuana, marijuana products, and marijuana businesses. The state will have strong

regulations in place to ensure businesses are not marketing to children.

Selling marijuana without a license, or selling marijuana to a minor, would still be criminal and would hold the same harsh penalties as today. At the same time, Proposal 1 will ensure that use and possession, even by minors, is not a cause for law enforcement to ruin the life of a young person.

Proposal 1 also allows for the cultivation of industrial hemp, an important agricultural crop that can be used to produce a variety of commercial products, including paper, textiles, biodegradable plastics, paint, insulation, biofuel, food, and animal feed.

QUESTION: What does Proposal 1 not do?

ANSWER: Proposal 1 does not allow people under the age of 21 to possess or purchase marijuana.

Proposal 1 does not allow anyone to drive while impaired by marijuana. It specifically prohibits anyone from consuming marijuana “while operating, navigating, or being in physical control of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat.” It also prohibits “smoking marijuana within the passenger area of a vehicle upon a public way.”

Proposal 1 does not allow public consumption of marijuana.

Proposal 1 does not change the existing medical marijuana program in Michigan.

Proposal 1 does not allow individuals to sell marijuana unless they are employees of a licensed and regulated marijuana business. Unregulated sales will remain illegal.

Proposal 1 does not allow more than twelve marijuana plants in any single residence. The maximum number of plants is twelve regardless of how many adults live in that residence.

Proposal 1 does not allow marijuana businesses to cultivate, process, sell, or display marijuana or marijuana products anywhere that is visible to the public.

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