



## Event provides overview of marijuana regulations

*Conflicting laws still exist in the industry*

By: Thomas Franz in News Stories October 19, 2017

Several leaders in the Michigan cannabis industry spoke to a crowd of dozens Oct. 12 in Birmingham to provide an update on the latest in statewide regulations.

Dec. 15 is the date set by Michigan's Department of Licensing and Regulatory Affairs to begin accepting applications for licenses in five areas of the marijuana sector. They are for growers, dispensaries, transporters, testers and processors.



Alexander M. Leonowicz, an attorney for Howard & Howard Attorneys PLLC, speaks at an Oct. 12 event on cannabis law. (MiLW photo by Thomas Franz)

The speakers at the "The Business of Cannabis: Everything You Need to Know from Industry Professionals" seminar presented by Howard & Howard Attorneys PLLC covered a wide range of topics for individuals interested in entering the field, from tax and investing topics to legal ramifications.

Clarence Dass, of The Dass Law Firm, spent five years as an assistant prosecuting attorney in Oakland County. Dass provided an update to the crowd on many criminal ramifications related to marijuana laws.

"The reality is there's a lot of gray area when it comes to the area of criminal law because we have this interplay between what's legal here and what the federal government allows you to do," Dass said. "State law only started allowing marijuana in 2008, and the only legal way to have it is if you're a patient or a caregiver."

Dass said marijuana possession is limited to 2.5 ounces as a patient, or 12 plants for a caregiver. Those plants must be locked in a container if kept indoors, or in an enclosed fence if kept outside, so no one can see the plants being grown. A violation of these laws results in a misdemeanor.

"A lot of patients won't stick to that 2.5-ounce requirement, or they won't have the physical boundaries in their home, and all it takes is a neighbor or a police officer driving down the street to see it, and you're now exposing yourself to criminal prosecution for something that is legal, but because you didn't know the rules, you made an illegal enterprise out of it," Dass said.

Dass said that in order to be a caregiver, an individual must be at least 21 years old, have no felonies on their record and may only serve up to five patients. If the caregiver operates as a business, a felony is issued.

A park law remains in place, Dass said, which dictates that it's a misdemeanor to possess marijuana within 100 feet of a park.

With regard to transporting marijuana, it must be locked in a trunk or else a misdemeanor is issued.

While these state laws are in place, Dass detailed how the change from the Obama administration to the Trump administration may nullify local regulations.

"While 28 states have legalized marijuana in some form, the federal government has prohibited marijuana at all levels. There is no exception to the rule, that even if you're operating this business, technically, you are violating federal law," Dass said.

"(Attorney General Jeff) Sessions has strong feelings on marijuana and, in May, issued a memo to resume high priority status for marijuana laws nationally," Dass said. "The justification that the federal government has used to

prosecute these crimes is that there is no acceptable medical use for marijuana. At this point, while half the country is changing its laws, I don't envision that changing in the next four or eight years."

Back on the state level, Dass addressed confusion over whether dispensaries can currently be open prior to the Dec. 15 date when LARA will accept license applications.

"There's this gray area now about whether you can even be open as a dispensary or as a medical marijuana grow operation, because the state came out about a month ago and said all of these operations need to shut down until we get the new licenses back up in December," Dass said.

"That's confusing because that's not law, but you have someone in law enforcement telling you it, and they could come to your operation now, shut it down, which would then cause you to get a misdemeanor or felony on your record, and you would never be able to get a license in December."

Alexander M. Leonowicz, a corporate attorney for Howard & Howard, also specializes in cannabis law.

His speech touched on a variety of topics, including how municipalities have the unique opportunity to establish their own local regulations.

"Michigan doesn't limit the type and number of licenses, but the actual municipalities do. Each city determines how many licenses there are and where they're located," Leonowicz said. "Each city gets to draft its own zoning ordinance, too. Lansing has a 38-page ordinance to find out everything about your operation. Hazel Park, meanwhile, has an eight-page ordinance. They each bring their own unique challenge to the process."

Justin Lehtonen, an assistant vice president at Worldwide Facilities in Los Angeles, discussed mainly how cannabis companies can obtain insurance for their products, but he also mentioned a common lawsuit in the industry.

"To provide coverage for product liability for cannabis, they (insurance companies) really need you to demonstrate that you are controlling carefully the entire supply chain and testing the product," Lehtonen said. "The product liability lawsuits that have happened in the cannabis space have not been related to people using cannabis. They've been related to things that were in the cannabis that shouldn't have been."

Other speakers at the event were LARA Director Shelly Edgerton, investment specialist Christopher Casey of WindRock Wealth Management and tax specialist Walter McGrail of Cendrowski Corporate Advisors.

*If you would like to comment on this story, email Thomas Franz at [tfranz@mi.lawyersweekly.com](mailto:tfranz@mi.lawyersweekly.com).*

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